

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION**

RYAN WHITE and JESSICA WHITE,

Plaintiffs,

v.

RETSEL CORPORATION, d/b/a
GRAND GATEWAY HOTEL and d/b/a
CHEERS SPORTS LOUNGE AND
CASINO,

Defendant.

Case No. 23-5072

COMPLAINT

INTRODUCTION

1. This lawsuit arises out of the explicit racial discrimination by Defendant Retsel Corporation d/b/a Grand Gateway Hotel (“Grand Gateway”).

2. On August 13, 2023, Grand Gateway discriminated against Jessica and Ryan White (the “White family”) on the basis of race in violation of 42 U.S.C. § 1981.

3. Grand Gateway’s intentional racial discrimination against the White family is part of a policy, pattern, or practice of intentional and illegal racial discrimination against Native Americans.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343 because this complaint involves a claim to recover damages for the protection of civil rights under 42 U.S.C. § 1981, which provides for redress when the

right to make or enforce a contract is interfered with on the basis of racial discrimination or animus, and 42 U.S.C. § 1988, which authorizes the recovery of attorneys' fees.

5. The White family's claim for declaratory relief is authorized by 28 U.S.C. §§ 2201 *et seq.*, Rules 57 and 65 of the Federal Rules of Civil Procedure, and the general legal and equitable powers of this Court.

6. Venue is appropriate under 28 U.S.C § 1391(b) because a substantial part of the events or omissions giving rise to the claims in this suit occurred in the District of South Dakota and Grand Gateway resides and is located in this judicial district.

PARTIES

7. Plaintiff Ryan White is an individual residing in Lac du Flambeau, Wisconsin. He is married to Jessica White. Ryan White is Native American and a member of a protected class.

8. Plaintiff Jessica White is an individual residing in Lac du Flambeau, Wisconsin. She is married to Ryan White. Jessica White is not a member of a racially protected class.

9. Defendant Retsel Corporation is a South Dakota corporation. Retsel Corporation does business as the Grand Gateway Hotel. Grand Gateway is located at 1721 N. Lacrosse Street, Rapid City, South Dakota.

10. Grand Gateway is vicariously liable for the actions of the employees, owners, managers, directors, and other agents of the corporation.

11. Grand Gateway is open to the public and offers services as a public accommodation.

ADDITIONAL FACUTAL ALLEGATIONS

I. Grand Gateway has a history of discrimination against Native Americans.

12. In a social media post from approximately March 20, 2022, Connie Uhre stated that she was banning Native Americans from the Grand Gateway Hotel and from Cheers Bar and also offered a “very special rate” to ranchers and travelers—presumably, only non-Native ranchers and travelers:



Connie Uhre

Do to the killing that took place at the Grand Gateway Hotel on March 19 2022 at 4 am plus all the vandalism we have had since the Mayor and Police Department are working with the non profit organization (Dark Money) . We will no long allow any Native American on property. Or in Cheers Sports Bar. Natives killing Natives. Rancher and Travelers will receive a very special rate of 59.00 a night. Book Direct.

1d Like Reply

13. Nick Uhre also started an email chain among other local hospitality management. On information and belief, Connie Uhre sent an email as part of that chain on or around March 20, 2022, in which she stated, “I really do not want to allow Natives on property. Every time we have problems I call the police with it, the first thing they ask is what nationality is he or she and 98% of the time I have to say native [sic], and we call at least once a week. they [sic] kill each other walk around with

guns . . . The problem is we do not know the nice ones from the bad natives . . . so we just have to say no to them!!”¹

14. Grand Gateway has been sued before for alleged discrimination against Native Americans.

15. Grand Gateway knew that discrimination against Native Americans is against the law.

16. Grand Gateway’s prior conduct demonstrates that any alleged non-discriminatory reason to exclude Native Americans is pretext for racial discrimination.

II. Grand Gateway discriminated against the White family by refusing to honor the White family’s reservation because Mr. White is Native American.

17. The White family traveled from Wisconsin to South Dakota for a family vacation. The White family reserved three rooms for one night at the Grand Gateway online through the website Travelocity. Jessica and Ryan White were traveling with Ryan’s three children (who are Jessica’s step-children), Ryan White’s mother, and Ryan White’s aunt. At the time they reserved the rooms, the White family was unaware of Grand Gateway’s history of racial discrimination.

18. After driving all day, the White family arrived at the Grand Gateway at approximately 10 p.m. on August 13, 2023.

¹ Arielle Zions, *Workers quit, lawsuit pending after hotel owner calls for ban on Native Americans*, SDPB, March 22, 2022, available at <https://listen.sdpb.org/business-economics/2022-03-22/workers-quit-lawsuit-pending-after-hotel-owner-calls-for-ban-on-native-americans> (last accessed September 21, 2023); see also KOTA Staff, *Rapid City hotel purportedly bans Native Americans from its property*, KOTA, March 21, 2022, available at <https://www.kotatv.com/2022/03/22/rapid-city-hotel-purportedly-bans-native-americans-its-property/> (last accessed September 21, 2023).

19. When they arrived, Ryan White parked the family's vehicle while Jessica White — who is not Native American — entered the hotel to check in.

20. On information and belief, Grand Gateway's manager and owner Nick Uhre was working at the desk and interacted with Jessica White when she attempted to check into the Grand Gateway.²

21. Jessica White began the check-in process without any issue.

22. After parking the family's car, Ryan White entered the Grand Gateway. The Grand Gateway employee stopped processing the White family's reservation and abruptly told the Whites that they did not have any rooms reserved at the hotel.

23. Jessica White attempted to provide the Grand Gateway employee with their confirmation number from Travelocity. The Grand Gateway employee refused to take the confirmation number, look in the hotel's system for the reservation, or take steps to honor the White family's reservation.

24. The White family contacted Travelocity from the lobby of the hotel. A Travelocity representative confirmed that the White family had three rooms reserved at the Grand Gateway.

² Although the Whites do not personally know and would not recognize any member of the Uhre family, the Grand Gateway employee at the front desk identified himself to Jessica White as the manager of the hotel. The Whites expect that discovery will confirm the identity of the Grand Gateway employee who confronted and discriminated against them. Regardless, Grand Gateway is liable for the actions of its employee.

25. Travelocity called the Grand Gateway to confirm that the Whites had a reservation at the Grand Gateway. Despite Travelocity's confirmation that the Whites had a reservation, the Grand Gateway employee still refused to rent rooms to them.

26. While the Grand Gateway employee was on the phone with the Travelocity representative, the White family heard the Grand Gateway employee tell the Travelocity representative – who spoke with an accent – that she needed to “speak English!” While not directed at the White family, that comment reinforced the unmistakably racial nature of the incident.

27. While in the lobby of the hotel, the White family checked online to see whether the Grand Gateway had rooms available to rent. The White Family confirmed that the Grand Gateway had rooms available to rent at that moment. Even though rooms were available, the Grand Gateway employee refused to rent any rooms to the White family.

28. After the White family continued to ask the Grand Gateway to honor their reservation, the Grand Gateway employee told Ryan White to leave the lobby. The Grand Gateway employee then called security. The Grand Gateway employee also told security to bring backup. The Grand Gateway employee next picked up the phone and said he was calling dispatch. Those statements made the White family feel threatened, intimidated, and concerned for their safety and the safety of their children. Ryan White left the hotel.

29. Jessica White remained in the lobby and asked the Grand Gateway employee for information on the manager and the owner of the hotel. When the Grand

Gateway employee refused to provide information on the owner of the hotel, Jessica White left the hotel.

30. Travelocity arranged for the White family to stay at a different hotel nearby.

31. Prior to being excluded from the hotel, the White family did not engage in behavior that would warrant exclusion from the Grand Gateway.

32. The behavior of the Grand Gateway employee toward Ryan White—who is Native American—combined with the hotel employee's racially-charged comment to the Travelocity representative, the absence of any plausible basis to exclude the White family from the hotel, and the Grand Gateway's history of discrimination against Native Americans all support the conclusion that the Grand Gateway refused to rent rooms to the White family because of Ryan White's race.

33. After experiencing discrimination by the Grand Gateway, the White family reported the discrimination to the Rapid City Community Relations Commission.

34. As a result of the Grand Gateway's discrimination, the White family felt and feels threatened, embarrassed, humiliated, disturbed, and shocked. They felt and feel unwelcome at the Grand Gateway.

35. As a result of the Grand Gateway's discrimination, the White family was prevented from completing any transactions at the Grand Gateway Hotel.

36. The discrimination experienced by the White family was part of a pattern of discrimination by the Grand Gateway.

CLAIMS FOR RELIEF

Count I: Violation of 42 U.S.C. § 1981. (By both plaintiffs)

37. Ryan and Jessica White incorporate all previous paragraphs of this Complaint as if fully set forth herein.

38. Section 1981 provides that all persons within the jurisdiction of the United States shall have “the same right . . . to make and enforce contracts . . . as is enjoyed by white citizens.” 42 U.S.C. § 1981. This includes “the making performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.” *Id.* § 1981(b).

39. Section 1981 is not limited to existing contractual relationships.

40. Ryan White is a member of a protected class.

41. Ryan White was engaged in an activity protected by 42 U.S.C. § 1981 when the White family attempted to make a contract for the purchase of hotel rooms at the Grand Gateway Hotel. Alternatively, Ryan White was an intended third-party beneficiary of a contract for the purchase of hotel rooms, which is a protected activity under 42 U.S.C. § 1981.

42. Jessica White was engaged in an activity protected by 42 U.S.C. § 1981 when the White family attempted to make a contract for the purchase of hotel rooms at the Grand Gateway Hotel. Although Jessica White is not herself a member of a protected class, she was prevented from purchasing hotel rooms at the Grand Gateway solely because of her husband’s race.

43. Grand Gateway intentionally interfered with the formation of a contract with the White family based solely on Mr. White's membership in a protected class.

44. Grand Gateway acted with discriminatory intent. Its actions toward the White family were racially motivated and designed to intimidate and exclude them. Through those actions, the Grand Gateway successfully interfered with and prevented the White family from enjoying the right to enter into a contract with the Grand Gateway Hotel and otherwise enjoy the benefits of the contract. As a result, the White family was denied access to the Grand Gateway.

45. Grand Gateway's actions proximately and directly caused injury and harm to the White family, including the denial of federally and constitutionally protected rights, public embarrassment, pain and suffering, injury to dignity, anguish, and personal degradation on the basis of race.

46. The Grand Gateway created a hostile, discriminatory, and unwelcoming environment for Native Americans.

47. As a result of its unlawful acts and practices, the Grand Gateway denied the White family the use and enjoyment of the benefits, privileges, terms and conditions that it extends to all other guests and invitees.

48. By discriminating against the White family on the basis of race, the Grand Gateway denied the White family the same right to enjoy the benefits, privileges, terms, and conditions of contract that are enjoyed by white citizens, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981.

49. As a result of the Grand Gateway's unlawful conduct, Ryan and Jessica White are entitled to compensatory damages in an amount to be determined at trial.

50. The Grand Gateway's conduct was intentional, deliberate, reckless, hurtful, wanton, discriminatory, done with malice and in reckless disregard of the rights of the White family, providing a justification and need for punitive damages in this case.

51. The White family is entitled to recover attorneys' fees and expert fees under 42 U.S.C. §§ 1981 and 1988 (b) and (c).

**Count II: Declaratory Relief, 28 U.S.C. §§ 2201 and 2202.
(By both plaintiffs)**

52. Ryan and Jessica White incorporate all previous paragraphs of this Complaint as if fully set forth herein.

53. A dispute currently exists with respect to the rights and obligations of the White family, on one hand, and the Grand Gateway, on the other.

54. The White family is entitled to a declaratory judgment finding that the foregoing actions of the Grand Gateway violated 42 U.S.C. § 1981.

PRAYER FOR RELIEF

55. Plaintiffs respectfully request that this Court:
- a. Declare that the Grand Gateway's conduct was unlawful;
 - b. Award compensatory, general, and special damages in an amount determined at trial;
 - c. Award punitive damages in an amount that will punish the Grand Gateway's conduct and discourage and deter the Grand Gateway and others from engaging in similar discrimination in the future;
 - d. Award to Plaintiffs their costs, expenses, disbursements, and reasonable attorneys' fees in this action pursuant to 42 U.S.C. § 1988;
 - e. Award pre-judgment and post-judgment interest; and
 - f. Grant other and further relief, both general and specific, at law, or in equity, as the Court finds is just and proper.

Dated: October 25, 2023

Respectfully submitted,

/s/ Brendan V. Johnson

Brendan V. Johnson (SD Bar # 3263)

Timothy W. Billion (SD Bar # 4641)

Thad A. Titze (SD Bar # 5204)

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ATTORNEYS FOR PLAINTIFFS

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

RYAN WHITE and JESSICA WHITE

(b) County of Residence of First Listed Plaintiff Vilas County, Wisconsin
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Brendan V. Johnson, Robins Kaplan LLP
140 North Phillips Ave., Suite 307, Sioux Falls, SD 57104
(605) 335-1300

DEFENDANTS

RETSEL CORPORATION, d/b/a GRAND GATEWAY HOTEL
and d/b/a CHEERS SPORTS LOUNGE AND CASINO

County of Residence of First Listed Defendant Pennington County, SD
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability LABOR <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1981

Brief description of cause: This lawsuit arises out of discrimination by Defendants on the basis of race to members of a protected class, in violation of 42 U.S.C. § 1981

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY


(See instructions):

JUDGE The Honorable Lawrence L. Piersol DOCKET NUMBER 5:22-cv-5027

DATE

October 25, 2023

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE